

Export-Import Bank of the U.S.

§ 404.2

additional information as it is developed.

(9) Whenever the Bank determines during the course of an investigation that it is necessary to compel or induce the cooperation of an employee, the Bank shall first consult with the Department of Justice. The Department of Justice will coordinate with the Bank to determine the procedures the Bank may use to compel an employee's participation without foreclosing possible criminal proceedings.

(10) The Bank shall maintain records of all disclosures that have been reported or investigated.

(11) All employees shall cooperate fully with officials of the Bank or other agencies who are conducting investigations of unauthorized disclosures of classified information.

(12) Employees determined by the Bank to have knowingly participated in an unauthorized disclosure of classified information or who have refused to cooperate with an investigation of such a disclosure shall be denied further access to classified information and shall be subject to other appropriate administrative sanctions. Prior to taking action against an employee in connection with the unauthorized disclosure or classified information, the Bank shall consult with the Department of Justice, Criminal Division.

PART 404—DISCLOSURE OF INFORMATION

Sec.

404.1 Purpose and policy.

404.2 Scope.

404.3 Information and records available to the public and exempt from disclosure.

404.4 Public access to information and records.

404.5 Administrative appeal of refusal to disclose.

404.6 Schedule of fees.

404.7 Annual Report to Congress.

404.8 Appearances and testimony by Eximbank officers and employees.

AUTHORITY: 5 U.S.C. 552; 12 U.S.C. 635; Freedom of Information Reform Act of 1986, Pub. L. 99-570; Debt Collection Act of 1982, Pub. L. 97-365.

SOURCE: 40 FR 7238, Feb. 19, 1975, unless otherwise noted.

§ 404.1 Purpose and policy.

(a) This part establishes policy and procedures governing public access to information contained in the files, documents, and records of the Export-Import Bank of the United States (Eximbank). In keeping with the spirit as well as the letter of Pub. L. 90-23, which codified and repealed Pub. L. 89-487, amending 5 U.S.C. 552, formerly section 30 of the Administrative Procedure Act, 60 Stat. 236, 5 U.S.C. 1002 (1964 Ed), and Pub. L. 93-502, further amending 5 U.S.C. 552, it reflects Eximbank policy that disclosure is the general rule rather than the exception. It is in addition a recognition that this policy in favor of disclosure extends in many instances to information technically exempt from disclosure under the law where such disclosure would not adversely affect some legitimate public or private interest intended to be protected by law, would not otherwise violate law or other authority, and would not impose an unreasonable burden upon Eximbank.

(b) This part is also a recognition that the soundness of many Eximbank programs, e.g. loans, guarantees and insurance, depends in large measure upon the reliability of commercial, technical, financial and business information relating to the affairs of applicants for Eximbank assistance. Since the release of such information would jeopardize the credit and competitive business position of an applicant it is essential that applicants be assured that confidential commercial or financial information which is submitted to Eximbank will not be disclosed to the public. By this assurance, applicants will be encouraged to make complete disclosure of material bearing upon an application.

§ 404.2 Scope.

This part applies to all files, documents, records, and information obtained or produced by officers and employees of Eximbank in the course of their official duties as well as all files, documents, records and other information in the custody or control of any Eximbank officer or employee. It does not purport to describe or set forth every file, document, record, or item of information which may or may not be